THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.10123 of 1998

Dated 13-06-2007

Between:
The Superintending Engineer, NSRC Mechanical Circle, Guntur-4.

..... PETITIONER

AND

Sri G.Jaya Rao & another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.10123 of 1998

O R D E R:

Since none appeared on behalf of the first respondent-workman, his name was directed to be printed in the cause-list. Today though the first respondent's name is printed in the cause list, neither did the first respondent appear nor was there any representation on his behalf.

This writ petition is filed against the order of the second respondent-2nd Appellate Authority under the Payment of Gratuity Act, 1972, dated 16-07-1997, wherein the authority had directed payment of gratuity computing the period of service rendered by the first respondent even after he had completed the age of superannuation of 58 years.

Learned Government Pleader for Irrigation brings to this Court's notice that the first respondent herein had approached the A.P. Administrative Tribunal, that the Tribunal, in its order in O.A.Nos.33418 and 33419 of 1998 dated
27-08-1993, had recorded the submissions made on behalf of the first respondent that in view of the interim orders of the Tribunal, he was continued in service till he attained the age of 60 years and that no further orders were necessary since he retired thereafter. Learned Government Pleader would submit that the petitioner herein has already paid gratuity to the first respondent upto 58 years and that the dispute in the writ petition is confined for the period beyond 58 years i.e. upto 60 years.

The Tribunal, while directing that there should be no recovery of pay from the first respondent after completion of 58 years till he retired from service at the age of 60 years, disposed of the O.A. As a result of the order of the A.P.Administrative Tribunal, the petitioner

herein was required not to recover arrears of pay for the period the first respondent actually worked beyond the age of superannuation of 58 years till he attained 60 years. The order of the Tribunal did not require the petitioner herein to pay gratuity to the first respondent even beyond his age of superannuation of 58 years. In the absence of any adjudication of the age of superannuation of the first respondent and since it is the specific case of the petitioner before the Tribunal and before this Court that the age of superannuation of the first respondent was 58 years, the gratuity payable must necessarily be restricted till the period he was in employment i.e 58 years and not thereafter. The order of the second respondent, to the limited extent, that gratuity was directed to be paid even beyond 58 years till 60 years is set aside.

The writ petition is accordingly disposed of. No order as to costs

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13-06-2007

usd